

RECITALS

WHEREAS, on November 9, 2021, Plaintiff commenced the Adversary Proceeding by filing a Complaint against Defendant [Docket No. 1];

WHEREAS, on December 10, 2021, Defendant filed its Answer to the Complaint [Docket No. 5];

WHEREAS, the parties thereafter engaged in fact and expert discovery in accordance with the agreed-upon Scheduling Order entered in the Adversary Proceeding;

WHEREAS, on May 27, 2022, Plaintiff filed its motion for summary judgment and supporting documentation [Docket Nos. 45-48] (the “Summary Judgment Motion”);

WHEREAS, on July 1, 2022, Defendant filed its opposition to the Summary Judgment Motion and supporting documentation [Docket Nos. 52-54];

WHEREAS, on July 20, 2022, Plaintiff filed its reply and additional documentation in further support of its Summary Judgment Motion [Docket Nos. 62-63];

WHEREAS, on July 27, 2022, the Bankruptcy Court heard oral argument with respect to the Summary Judgment Motion;

WHEREAS, on October 12, 2022 the Bankruptcy Court issued its *Report and Recommendation to the District Court Regarding Highland Capital Management, L.P.’s Motion for Summary Judgment Against Highland Capital Management Fund Advisors, L.P.* [Docket No 73] (the “R&R”), recommending the District Court grant summary judgment against Defendant;

WHEREAS, the R&R directed Plaintiff to promptly (a) submit a form of Judgment that calculates proper amounts due, including interest accrued to date (and continuing to accrue per diem), as well as costs and attorneys’ fees incurred (the “Proposed Judgment”), and (b) file a separate Notice with backup documentation supporting the costs and attorneys’ fees (collectively, the “Notice”); and

WHEREAS, the Parties have conferred and agree on the following briefing schedule to address the R&R and Proposed Judgment.

STIPULATION

NOW, THEREFORE, in consideration of the foregoing, the Parties agree and stipulate as follows:

1. On or before November 2, 2022, (a) Plaintiff shall file its Proposed Judgment and Notice; and (b) pursuant to Federal Rule of Bankruptcy Procedure 9033 (“Rule 9033”), Defendant shall file any objections to the R&R (the “Objection”);
2. On or before November 23, 2022, (a) Plaintiff shall file any response to any Objection (the “Response”), and (b) Defendant shall file any objections to the Proposed Judgment and/or Notice;
3. Defendant shall not file a reply to Plaintiff’s Response under Rule 9033 or otherwise;
4. The Parties agree that Defendant’s Objection and Plaintiff’s Response shall not exceed 35 pages, excluding signature pages; and
5. The Parties will provide the District Court with notice of this stipulation and the agreed upon briefing schedule.

Dated: October 18, 2022

CONSENTED AND AGREED TO BY:

/s/ Michael P. Aigen

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